

NITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

Eli Kafif and Mary Kafif,

Case No.: 1-16-41959-nhl
Chapter 11

Debtor.

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State of New York)

) ss

County of Kings)

AFFIRMATION IN SUPPORT OF DEBTORS'
ORDER TO SHOW CAUSE

COMES NOW, the Debtors, Eli Kafif and Mary Kafif, by and through their counsel Alla Kachan, Esq., of Law Offices of Alla Kachan, P.C., respectfully submit this Affirmation in support of Order to Show Cause dated February 13, 2019 (the "Order"), to direct Dodi Hafif, Non-Debtor, to appear before this Court at U.S. Bankruptcy Court, Eastern District of New York, Conrad B. Duberstein Courthouse, 271-C Cadman Plaza East - Suite 2529, Brooklyn, NY 11201, on **February 20, 2019 at 2:30 P.M.**, and show cause why the Honorable Court should not hold Dodi Hafif in contempt of a court order entered on November 19, 2018, ordering that the Debtors Eli Kafif and Mari Kafif and Dodi Hafif sell the property located at 1821 East 14th Street, Brooklyn, New York 11229 (the "Property"), pursuant to the terms of a contract of sale dated July 24, 2018.

1. On May 4, 2016 (the "Petition Date"), the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code.

2. The Debtors and Dodi Hafif, Non-Debtors, are individuals who jointly own a property located at 1821 East 14th Street, Brooklyn, New York 11229 (the "Property").

3. Upon information and belief, Dodi Hafif received notices of the Debtors' bankruptcy filings on or about May 4, 2016 by notice from the Court.

4. On December 02, 2016, Dodi Hafif, by counsel, Robert Melomed, filed a proof of claim in the Debtor's case, Claim # 22-1.

5. On July 24, 2018 the Debtors and Dodi Hafif, Non-Debtor signed the Contract of Sale the property with YFL Groups LLC, the Purchaser, which was approved by the Court Order issued on December 10, 2018.

6. On December 10, 2018, the New York Bankruptcy Court of the Eastern District of NY, entered an order, under docket number 161, ordering the Debtors and the co-owner, Dodi Hafif to sell the property in accordance with the terms of the Contract of Sale referenced above. The co-owner, Dodi Hafif, did not object to the motion for the entry of said order at any time herein.

7. Currently, Dodi Hafif is refusing to provide and withholding a signed power attorney which would allow the closing of title to proceed without his physical presence in the country.

8. Dodi Hafif is further refusing to personally appear at the closing of title for said property.

9. The continued refusal of Dodi Hafif to take steps necessary for the closing of title for the property to take place, have jeopardized the transaction and cause the prospective buyer to request a return of the contract deposit in the event that the closing of title does not take place shortly.

10. The Debtors have not previously filed an application for similar relief.

WHEREFORE, the undersigned respectfully requests the within Order to Show Cause be granted.

I declare under penalty of perjury that the information contained in this Application is true and correct.

Dated: Brooklyn, New York
February 13, 2019

/s/ Alla Kachan
Alla Kachan, Esq.

Alla Kachan, Esq.
THE LAW OFFICES OF ALLA KACHAN, P.C.
3099 Coney Island 3RD Fl.
Brooklyn, NY 11235
Telephone: (718) 513-3145

Hearing Date:

Objection Deadline:

Counsel for the Debtor

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

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In re:

Eli Kafif and Mary Kafif

Chapter 11

Case No. 1-16-41959-nhl

Debtor

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TO: THE HONORABLE NANCY HERSEY LORD,
UNITED STATES BANKRUPTCY JUDGE

**DEBTOR'S MOTION FOR
ENFORCEMENT OF BANKRUPTCY CODE**

Eli Kafif and Mary Kafif (collectively, the "Debtors"), Debtors and Debtors-in-possession in the above-captioned chapter 11 cases (the "Bankruptcy Cases"), by and through their undersigned counsel, hereby move (this "Motion") for entry of an order holding Dodi Hafif in contempt of an order of the Bankruptcy Court of the Eastern District of NY, entered on December 10, 2018, ordering that the Debtors Eli Kafif and Mari Kafif and Dodi Hafif, as co-owner, to sell the property located at 1821 East 14th Street, Brooklyn, New York 11229 (the "Property"), pursuant to the terms of a contract of sale dated July 24, 2018 and further, ordering Dodi Hafif to personally appear or to execute documents necessary to effectuate the closing of title for said property.

In further support of the Motion, the Debtors respectfully state as follows:

JURISDICTION, VENUE, STATUTORY BASIS, EXTRAORDINARY RELIEF

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This matter is a core proceeding, within the meaning of 28 U.S.C. § 157(b)(2). Venue in this Court is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

2. The statutory bases for the relief requested herein are sections 9020 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”).

3. The Debtors respectfully submit that, to the best of their understanding, none of the relief sought in this Motion constitutes “extraordinary relief” as defined by Bankruptcy Rule 6003.

PRELIMINARY STATEMENT

4. The Bankruptcy Case was commenced on May 4, 2016 (the “Petition Date”), the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code. The Debtors are managing their estate and affairs as Debtors-in-possession.

5. The Debtors and Dodi Hafif, Non-Debtor, jointly own the residential property located at 1821 East 14th Street, Brooklyn, New York 11229 (the “Property”).

6. Upon information and belief, Dodi Hafif received notices of the Debtors’ bankruptcy filings on or about May 4, 2016 by notice from the Court.

7. On December 02, 2016, Dodi Hafif, by counsel, Robert Melomed, filed a proof of claim in the Debtor’s case, Claim # 22-1.

8. On July 24, 2018 the Debtors and Dodi Hafif, Non-Debtor signed the Contract of Sale the property with YFL Groups LLC, the Purchaser, which was approved by the Court Order issued on December 10, 2018.

9. On December 10, 2018, the New York Bankruptcy Court of the Eastern District of NY, entered an order, under docket number 161, ordering the Debtors and the co-owner, Dodi Hafif to sell the property in accordance with the terms of the Contract of Sale referenced above. The co-owner, Dodi Hafif, did not object to the motion for the entry of said order at any time herein.

10. Currently, Dodi Hafif is refusing to provide and withholding a signed power attorney which would allow the closing of title to proceed without his physical presence in the country.

11. Dodi Hafif is further refusing to personally appear at the closing of title for said property.

12. The continued refusal of Dodi Hafif to take steps necessary for the closing of title for the property to take place, have jeopardized the transaction and cause the prospective buyer to request a return of the contract deposit in the event that the closing of title does not take place shortly.

**REQUEST FOR ENFORCEMENT OF
FEDERAL RULE OF BANKRUPTCY PROCEDURE**

I. BASIS FOR RELIEF

a. Rule 9020. Contempt Proceedings

13. Rule 9020 of the Federal Rule of Bankruptcy Procedure states:

- Rule 9014 governs a motion for an order of contempt made by the United States trustee or a party in interest.

NO PRIOR REQUEST

14. No prior motion for the relief requested herein has been made by the Debtor to this or any other court.

NOTICE

15. A copy of this Motion will be provided to (i) the Office of the United States Trustee, (ii) all Creditors listed on the Debtor's schedules of assets and liabilities, and (iii) those parties who have filed notices of appearance in the Bankruptcy Cases. The Debtors respectfully submit that, under the circumstances, no other or further notice is necessary.

WHEREFORE, the Debtors respectfully request that the Court enter an order, enforcing the Rule 9020 of the Federal Rules of Bankruptcy Procedure.

Dated: February 13, 2019
Brooklyn, New York

Counsel for the Debtor

THE LAW OFFICES OF ALLA KACHAN, P.C.

By: /s/ Alla Kachan

Alla Kachan, Esq.

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